

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Miguel B. Perez and)	
Luis Olivares Medina,)	
)	
Plaintiffs,)	
)	ORDER OF DISMISSAL
vs.)	
)	Case No. 4:15-cv-095
Black Hills Trucking, Inc. and)	
Melvin L. Nordhagen,)	
)	
Defendants.)	

Before the Court is the Plaintiffs’ Rule 41(a)(1)(A)(1) “Notice of Dismissal” filed on August 12, 2015, wherein the Plaintiffs asked the Court to dismiss their action without prejudice. See Docket No. 5. The Defendants filed a reply on September 1, 2015. See Docket No. 6. In their reply the Defendants correctly point out that dismissal under Rule 41(a)(1)(A)(1) is not available as they had filed and served an answer on July 16, 2015. Nevertheless, the Defendants did not object to dismissal without prejudice while noting their right to seek reimbursement of their costs under Rule 41(d) if the Plaintiffs refile their complaint.

Accordingly, the Court **ORDERS** the action be dismissed pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure without prejudice and without attorney’s fees, costs, or disbursements to any party. Should the Plaintiffs refile this action the Court will give careful consideration to reimbursing the Defendants for all costs incurred in this action.

IT IS SO ORDERED.

Dated this 8th day of September, 2015.

/s/ Daniel L. Hovland
Daniel L. Hovland, District Judge
United States District Court